

Message Text

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ACTION EB-08

INFO OCT-01 IO-13 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-10 OIC-02 AGRE-00 CEA-01 CIAE-00 COME-00
DODE-00 FRB-03 H-01 INR-10 INT-05 L-03 LAB-04
NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15 STR-07
ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01 DOE-15
DOEE-00 SSO-00 /168 W

-----127439 051820Z /42

P 051711Z APR 78

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TO SECSTATE WASHDC PRIORITY 8017

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PASS TREASURY

E.O. 11652: N/A

TAGS: ETRD, GATT, US, EC, JA

SUBJECT: GATT ANTIDUMPING COMMITTEE MEETING, APRIL 3-4:
STEEL

1. SUMMARY. STEEL AGENDA ITEM AT GATT ANTIDUMPING COMMITTEE MEETING APRIL 3-4 INCLUDED AIRING OF VIEWS ON (A) GILMORE CASE, (B) U.S. TRIGGER PRICE MECHANISM, AND (C) EC BASE PRICE SYSTEM. COMMENTS ON U.S. SYSTEM CAME PRINCIPALLY FROM CANADA AND JAPAN AND WERE NOT ESPECIALLY HARD-HITTING. EC WAS MORE SHARPLY CRITICIZED PARTICULARLY BY JAPANESE. CONTRARY TO EXPECTATION, AUSTRALIA DID NOT COMMENT ON EC PROGRAM. END SUMMARY.

2. ACTION REQUESTED: PLEASE REPEAT TO "ALSTEEL COLLECTIVE."

3. AT SPECIAL MEETING OF GATT COMMITTEE ON ANTIDUMPING PRACTICES HELD APRIL 3-4, SEVERAL DELEGATIONS AIRED
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GENERALLY LOW-KEY CRITICISM OF U.S. TRIGGER PRICE MECHANISM AND, MORE PERSISTENTLY, OF EC BASIC PRICE SYSTEM. NON-STEEL ISSUES DISCUSSED AT MEETING REPORTED SEPTEL (NOTAL).

4. GILMORE CASE: JAPAN HAD REQUESTED OPPORTUNITY TO CONTINUE DISCUSSION OF GILMORE DUMPING CASE (CARBON

STEEL PLATE FROM JAPAN) BEGUN AT OCTOBER 1977 MEETING. THRUST OF COMMENTS OF JAPANESE REPRESENTATIVE (TERADA) AT THIS MEETING WAS THAT TWO DEVELOPMENTS SHOULD BE "FULLY TAKEN INTO ACCOUNT AND REFLECTED" IN THE INTERNATIONAL TRADE COMMISSION'S DETERMINATION OF INJURY IN THE CASE:

-- THE TPM IS LIKELY TO ELIMINATE THE DUMPING MARGIN BY BRINGING IMPORT PRICES AT LEAST TO THE LEVEL OF TRIGGER PRICES.

-- THE TPM WILL STABILIZE U.S. MARKET PRICES, THEREBY IMPROVING THE CONDITION OF THE U.S. INDUSTRY.

U.S. REPRESENTATIVE (TREASURY DAS EHRENHAFT) NOTED THAT THE MARGINS FOUND AT TIME OF TENTATIVE DETERMINATION IN GILMORE CASE WERE REVISED DOWNWARD REFLECTING DATA SUBSEQUENTLY SUPPLIED BY CERTAIN JAPANESE COMPANIES INVOLVED, AS WELL AS THAT DEVELOPED ON JAPANESE COST OF PRODUCTION IN THE COURSE OF ESTABLISHING THE TPM. HOWEVER, TRIGGER PRICES THEMSELVES DO NOT REPRESENT FAIR VALUE, CONSTRUCTED VALUE OR FOREIGN MARKET VALUE AND THEREFORE DO NOT ESTABLISH WHETHER STEEL WAS SOLD AT "LESS THAN FAIR VALUE" WITHIN MEANING OF ACT IN GILMORE OR OTHER CASES. EHRENHAFT ADDED THAT THERE IS NO ASSURANCE THAT ITC WOULD SEE TPM AS RELEVANT TO ITS CONSIDERATION OF INJURY CAUSED TO U.S. INDUSTRY BY LTFV SALES SINCE THOSE SALES PREDATED LIMITED OFFICIAL USE

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TPM.

5. U.S. TRIGGER PRICE MECHANISM: TPM WAS COMMENTED ON BY CANADA, JAPAN AND, PERIPHERALLY, EC. CANADIANS WARNED THAT TPM (AND THE EC'S BASIC PRICE SYSTEM), WHILE NOT TECHNICALLY IN VIOLATION OF CODE, DID NOT FULLY ACCORD WITH ITS SPIRIT. SPECIFICALLY, CANADIANS COMPLAINED THAT:

-- CANADIAN EXPORTERS ARE SUBJECTED TO THE "NEW AND ONEROUS DOCUMENTATION REQUIREMENTS OF THE SSSI (SPECIAL SUMMARY STEEL INVOICE) AND, ON REQUEST, TO AN ADDITIONAL INVESTIGATORY PROCESS WHEN THESE COMPANIES HAVE HAD NO RECENT HISTORY OF BEING INVOLVED IN U.S. ANTIDUMPING CASES."

-- THE TPM DISCRIMINATES AGAINST NEAR-BY SUPPLIERS, IF ONLY BECAUSE OF INCLUSION OF THE SIZEABLE FREIGHT COMPONENT FROM JAPAN IN THE TRIGGER PRICE. U.S. POINTED OUT THAT "HIGH" TRIGGER PRICES IN GREAT LAKES COULD WELL WORK TO CANADIAN PRODUCERS' ADVANTAGE BY SHIELDING THEM FROM LOWER-PRICE COMPETITION THERE. FURTHER SOME CANADIAN PRODUCERS HAVE INDICATED WILLINGNESS TO PROVIDE DATA REQUESTED TO PERMIT SYSTEM TO OPERATE.

6. JAPAN ALSO RAISED SEVERAL QUESTIONS ABOUT THE TPM, PARTICULARLY HOW U.S. WAS MEETING CODE REQUIREMENT FOR CONSIDERATION OF INJURY BEFORE SELF-INITIATING ANTIDUMPING INVESTIGATIONS UNDER TPM. U.S. POINTED OUT THAT TREASURY IS SEEKING TO COLLECT MONTHLY REPORTS ON SHIPMENTS, EMPLOYMENT, ETC., FROM U.S. INDUSTRY. U.S. DEFENDED TPM AS A TEMPORARY DEVICE CONSISTENT WITH CODE THAT INVOLVES NO AUTOMATIC MEASURES (IN IMPLIED CONTRAST TO EC'S PROGRAM) BUT IS AIMED ONLY AT EXPEDITING ANTIDUMPING INVESTIGATIONS WITHOUT DIMINISHING THE RIGHTS OF ANY PARTY UNDER U.S. LAW. JAPANESE INDICATED SATISFACTION WITH U.S. RESPONSE. ONLY FURTHER COMMENTS ON TPM WERE THOSE OF EC, WHICH SEVERAL TIMES INDICATED THAT EC'S LIMITED OFFICIAL USE

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BASIC PRICE SYSTEM AND MEASURES ADOPTED BY SWEDEN AND CANADA HAD BEEN NECESSITATED BY THREAT OF TRADE DIVERSION RESULTING FROM TPM.

7. EC BASIC PRICE SYSTEM WAS SUBJECTED TO TOUGHER QUESTIONING BY JAPAN AND CANADA. WE HAD EXPECTED AUSTRALIANS TO JOIN IN CRITICISM OF EC PROGRAM, BUT UNDER INSTRUCTIONS FROM CANBERRA THEY MADE NO INTERVENTIONS. THEY EXPLAINED THAT AUSTRALIA WILL HOLD MINISTERIAL TALKS WITH EC IN BRUSSELS NEXT WEEK. U.S. KEPT LOW PROFILE IN THIS PART OF DEBATE.

8. CANADIANS COMPLAINED THAT BASE PRICE SYSTEM WAS BEING APPLIED DIFFERENTIALLY TO THOSE WHO ENTER INTO BILATERAL ARRANGEMENTS WITH THE COMMUNITY AND THOSE WHO DO NOT. THEY ALSO CHARGED EC APPROACH SHIFTS THE BURDEN OF PROOF TO THE EXPORTER/IMPORTER TO DEMONSTRATE THAT GOODS SOLD BELOW THE BASE PRICE ARE NOT BEING INJURIOUSLY DUMPED. THEY CALLED ON EC TO CLARIFY THE RELATIONSHIP BETWEEN BASIC PRICES, NEGOTIATED (BILATERAL) PRICES AND THE LIMITED OFFICIAL USE

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PRICES THE EC IS ATTEMPTING TO MAINTAIN IN ITS DOMESTIC MARKET.

9. JAPANESE TOOK UP SIMILAR SET OF QUESTIONS. THEY PRESSED EC TO EXPLAIN CONCRETELY HOW BASIC PRICES HAD BEEN CALCULATED FOR EACH OF 140 PRODUCTS COVERED. JAPANESE ALSO CONTENDED THAT ARTICLE 8(D) OF THE CODE REQUIRED THE ESTABLISHMENT OF BASE PRICES AT A LEVEL HIGHER THAN THE "LOWEST NORMAL PRICE" IN A SUPPLYING COUNTRY, IN CONTRAST TO EC'S USE OF A CONSTRUCTED VALUE. THEY ALSO ARGUED THAT EC ABUSED CODE BY USING BASIC PRICES TO ESTABLISH MARGINS FOR IMPOSITION OF ANTIDUMPING DUTIES. IN SIMILAR VEIN, JAPAN EXPRESSED DOUBTS ABOUT EC FULFILLMENT OF CODE IN ITS SIMULTANEOUS INITIATION OF AN ANTIDUMPING INVESTIGATION AND IMPOSITION OF PROVISIONAL DUTIES.

10. IN RESPONSE, EC ARGUED THAT IN VIEW OF DESPERATE SITUATION OF ITS INDUSTRY IT HAD TO ACT ON THE BASIS OF AVAILABLE EVIDENCE. SINCE JAPANESE REFUSED TO SUPPLY DATA, EC WAS FORCED TO RELY ON PUBLICLY AVAILABLE DATA ON JAPANESE INDUSTRY. EC REPRESENTATIVE (BESELER) ASSERTED THERE IS NO RELATION WHATSOEVER BETWEEN BASIC PRICE AND EC DOMESTIC PRICE. HE DEFENDED EC'S METHOD OF APPLYING PROVISIONAL DUTIES UPON INITIATION OF THE INVESTIGATION BY ARGUING THAT EC USED STRICT STANDARDS IN DECIDING WHETHER TO INITIATE A CASE. BESELER ADDED THAT, AFTER IMPOSITION OF PROVISIONAL MEASURES, A FULL INVESTIGATION WILL BE CONDUCTED IF REQUESTED BY AN EXPORTER OR IMPORTER. HE NOTED THAT JAPANESE COMPANIES HAVE NOT YET RESPONDED TO THE QUESTIONNAIRE SENT TO THEM IN CONNECTION WITH JANUARY ANTIDUMPING ACTION UNDER THE BPS.

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11. THE DISCUSSION ON STEEL WAS MARKED BY A LEITMOTIF OF CONCERN THAT BROAD, SECTORAL ANTIDUMPING MEASURES SUCH AS THOSE IMPLEMENTED BY THE U.S. AND THE EC WERE BEYOND THE SCOPE OF THE MEASURES ENVISIONED BY THE CODE. THERE WAS CONSIDERABLE CONCERN THAT THESE MEASURES BE VIEWED AS EXCEPTIONAL AND TEMPORARY SO THAT THEY WOULD NOT RESULT IN THE DISRUPTION OF STEEL TRADE OR IN THE EXTENSION OF SIMILAR SYSTEMS TO OTHER SECTORS. BESELER ESPECIALLY SEEMED TO GO TO GREAT LENGTHS TO PORTRAY BPS IN JUST THOSE TERMS, NOTING THAT THE EC COMMISSION IS COMING UNDER INCREASING PRESSURE TO ACCORD SIMILAR TREATMENT TO SEVERAL OTHER SECTORS. VANDEN HEUVEL

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